

House Study Bill 50

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON COMMERCE,
REGULATION AND LABOR BILL
BY CHAIRPERSON JENKINS)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the deregulation of communications services
2 including determining comparable services, considering market
3 forces, providing for expedited deregulation proceedings,
4 eliminating accounting plan requirements, eliminating
5 reporting requirements to the general assembly, and providing
6 effective and retroactive applicability dates.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
8 TLSB 1748HC 81
9 kk/sh/8

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1 1 Section 1. Section 476.1D, subsections 1, 2, and 3, Code
2 2005, are amended to read as follows:
3 1. Except as provided in this section, the jurisdiction of
4 the board as to the regulation of communications services is
5 not applicable to a service or facility that is provided or is
6 proposed to be provided by a telephone utility that is or
7 becomes subject to effective competition, as determined by the
8 board.
9 a. In determining whether a service or facility is or
10 becomes subject to effective competition, the board shall
11 consider, among other factors, whether a comparable service or
12 facility is or may reasonably be expected to become available
13 from a supplier other than the telephone utility in the
14 geographic market being considered by the board and whether
15 market forces in that market are sufficient to assure just and
16 reasonable rates without regulation.
17 b. The board shall consider all of the following services
18 as comparable services or facilities to wireline
19 communications services:
20 (1) Wireless communications services.
21 (2) Cable telephony services.
22 (3) Voice over internet protocol services.
23 c. When considering market forces in the market proposed
24 to be deregulated, the board shall consider factors including
25 but not limited to the presence or absence of all of the
26 following:
27 (1) Wireless communications services.
28 (2) Cable telephony services.
29 (3) Voice over internet protocol services.
30 (4) Economic barriers to the entry of competitors or
31 potential competitors in that market.
32 d. If one or more telephone utilities providing wireline
33 or cable telephony services, other than an incumbent telephone
34 utility, offers services using the utility's own switching or
35 loop facilities in at least two-thirds of a given geographic
2 1 market served by an incumbent telephone utility, a rebuttable
2 2 presumption is established that effective competition exists
2 3 for that geographic market and the incumbent utility may file
2 4 a request for expedited deregulation proceedings for the
2 5 geographic markets affected. The request for expedited
2 6 deregulation shall describe the geographic markets alleged to
2 7 be affected. Within thirty days after the request is filed
2 8 and after opportunity for a hearing, the board shall issue an
2 9 order granting or denying the request.
2 10 e. In addition to other services or facilities previously
2 11 deregulated, effective March 1, 2005, the jurisdiction of the
2 12 board is not applicable to the regulation of any of the
2 13 following services:
2 14 (1) Business local exchange services provided throughout

2 15 the state.

2 16 (2) Residential additional line services provided

2 17 throughout the state.

2 18 (3) Except as regulation may be reimposed pursuant to
2 19 subsection 6, residential local exchange services provided in
2 20 the cities of Ames, Ankeny, Burlington, Cedar Falls, Cedar
2 21 Rapids, Clinton, Council Bluffs, Davenport, Des Moines,
2 22 Dubuque, Fort Dodge, Iowa City, Marshalltown, Mason City,
2 23 Muscatine, Ottumwa, Sioux City, and Waterloo, as those cities
2 24 are reflected in territory maps of the incumbent
2 25 telecommunications provider for the applicable exchange.

2 26 2. Deregulation Except as provided in subsection 1,
2 27 paragraph "e", deregulation of a service or facility for a
2 28 utility is effective only after all of the following:

2 29 a. A finding of effective competition by the board.

2 30 b. Election by a utility providing the service or facility
2 31 to file a deregulation accounting plan but only if the utility
2 32 providing the service or facility is subject to rate-of-return
2 33 regulation at the time deregulation becomes effective. A

2 34 deregulation accounting plan shall not be required for a
2 35 utility operating under a price plan for the service or
3 1 facility proposed to be deregulated.

3 2 c. Approval of a utility's deregulation accounting plan by
3 3 the board, if a plan is required.

3 4 3. If the board determines a service or facility is
3 5 subject to effective competition and approves the utility's
3 6 deregulation accounting plan, if a plan is required, the board
3 7 shall deregulate the service or facility within a reasonable
3 8 time.

3 9 Sec. 2. Section 476.98, Code 2005, is repealed.

3 10 Sec. 3. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

3 11 This Act, being deemed of immediate importance, takes effect
3 12 upon enactment and is retroactively applicable to March 1,
3 13 2005.

3 14 EXPLANATION

3 15 This bill relates to the deregulation of communications
3 16 services by the utilities board of the utilities division of
3 17 the department of commerce.

3 18 Under current law, before deregulating communications
3 19 services, the board must determine whether the communications
3 20 service or facility provided is subject to effective
3 21 competition by considering whether a comparable service is
3 22 being provided by another supplier in the same geographic
3 23 market and whether market forces in that market are sufficient
3 24 to assure just and reasonable rates without regulation. The
3 25 bill requires the board to consider whether a comparable
3 26 service may reasonably be expected to become available from
3 27 another supplier rather than only whether the service is
3 28 actually available from another supplier. The bill also
3 29 directs the board to consider wireless communications
3 30 services, cable telephony services, and voice over internet
3 31 protocol services to be services or facilities comparable to
3 32 wireline communications services. The bill directs the board
3 33 to consider, when considering market forces in a market
3 34 proposed to be deregulated, the presence or absence of
3 35 wireless communications services, cable telephony services,
4 1 voice over internet protocol services, and economic barriers
4 2 to the entry of competitors or potential competitors in that
4 3 market. The bill creates a rebuttable presumption of
4 4 effective competition where a wireline or cable telephony
4 5 provider other than an incumbent provider offers service using
4 6 its own switching or loop facilities in two-thirds of a
4 7 geographic market of an incumbent telephone utility. Where
4 8 such a rebuttable presumption exists, the incumbent telephone
4 9 utility can request an expedited deregulation proceeding
4 10 before the board.

4 11 The bill provides that effective March 1, 2005, all
4 12 business local exchange services, residential additional line
4 13 services, and residential local exchange services provided in
4 14 certain exchanges shall no longer be regulated by the board.

4 15 The bill provides that a deregulation accounting plan shall
4 16 be filed only if the utility is subject to rate-of-return
4 17 regulation. A deregulation accounting plan is not required
4 18 for a utility operating under a price plan for the service or
4 19 facility proposing to be deregulated.

4 20 The bill repeals Code section 476.98 requiring the consumer
4 21 advocate to calculate an estimate of the return of a local
4 22 exchange carrier operating under price regulation as if the
4 23 carrier were subject to rate-of-return regulation, and to
4 24 provide a report to the general assembly regarding the results
4 25 of the calculation and a recommendation as to requiring a

4 26 different form of rate regulation.
4 27 The bill takes effect upon enactment and is retroactively
4 28 applicable to March 1, 2005.
4 29 LSB 1748HC 81
4 30 kk:nh/sh/8